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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,674	03/05/2002	Douglas N. Knisely	Knisely 10-4-3-1	3383

7590 07/25/2006

Greenberg Traurig, LLP
885 Third Avenue
New York, NY 10022

EXAMINER

PHUNKULH, BOB A

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,674

Applicant(s)

KNISELY ET AL.

Examiner

Bob A. Phunkulh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 9, 11-15, 17 and 19 is/are rejected.
- 7) ☒ Claim(s) 6, 8, 10, 16, 18 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/17/2006
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

This communication is in response to applicant's 03/17/2006 amendment(s)/response(s) in the application of **KNISELY et al.** for "**METHOD FOR CELL SWITCHING IN WIRELESS COMMUNICATION SYSTEMS**" filed 03/05/2002. The amendment/response to the claims have been entered. No claims have been canceled. No claims have been added. Claims 1-20 are now pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9, 11, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Gilhousen et al.* (US 6,157,668), herein after *Gilhousen*.

Regarding claims 1, 9, 11, 19, *Gilhousen* discloses the following: when communications are initially established, a mobile unit communicates through a first base station and the Active Set contains only the first base station. The mobile unit monitors the pilot signal strength of the base stations of the Active Set, the Candidate Set, and the Neighbor Set. When a pilot signal of a base station in the Neighbor Set exceeds a predetermined threshold level, the base station is added to the Candidate Set and removed from the Neighbor Set at the mobile unit. The mobile unit communicates a message to the first base station identifying the new base station. A

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system controller decides whether to establish communication between the new base station and the mobile unit. Should the system controller decide to do so, the system controller sends a message to the new base station with identifying information about the mobile unit and a command to establish communications therewith. A message is also transmitted to the mobile unit through the first base station. The message identifies a new Active Set that includes the first and the new base stations (see col. 2 lines 6-28).

Gilhousen fails to explicitly disclose the message includes channel measurement.

However, it would have been obvious to one having ordinary skill in the art at the time of invention was made to include the true measurement made by the mobile station to the serving base station in order to provide the system controller with better information and judgment when deciding whether to switch the communication to the identified new base station.

Regarding claims 2 and 12, *Gilhousen* the information is received over a reverse link signaling channel of a cell in which the system equipment is located (the mobile station transmitting the message to the serving base station over reverse link, see col. 2 lines 6-28).

Regarding claims 3 and 13, *Gilhousen* discloses confirming that the received information is coded information; and transmitting, upon confirmation of the coded information, an acknowledgement signal to the mobile when the system equipment is

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currently serving the mobile, or when the system equipment is a target system equipment, serving the mobile in accordance with a protocol being followed by the communication system thus allowing the mobile, the serving system equipment and the target system equipment to complete the cell switching (A message is also transmitted to the mobile unit through the first base station. The message identifies a new Active Set that includes the first and the new base stations (see col. 2 lines 6-28).

Regarding claims 4 and 14, *Gilhousen* discloses the coded information is a signal to which a spreading code is applied which signal contains formatted information having channel measurement adjustment information for the serving system equipment where either the spreading code or at least a portion of the formatted information identifies the particular target system equipment (well know in the art that CDMA system utilized the spreading codes to differentiate the users, see col. 1 lines 19-45) .

Regarding claims 5 and 15, *Gilhousen* discloses the spreading code is a null code (PN code is also known as Null code, see col. 1 lines 35-45).

Regarding claims 7 and 17, *Gilhousen* discloses the spreading code is a cover code (PN code is also known as Null code, see col. 1 lines 35-45).

Allowable Subject Matter

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Claims 6, 8, 10, 16, 18, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any response to this action should be mailed to:

The following address mail to be delivered by the United States Postal Service (USPS) only:

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(703) 872-9306, (for formal communications intended for entry)

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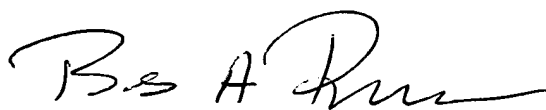
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bob A. Phunkulh** whose telephone number is **(571) 272-3083**. The examiner can normally be reached on Monday-Tuesday from 8:00 A.M.

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to 5:00 P.M. (first week of the bi-week) and Monday-Friday (for second week of the bi-week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Wellington Chin**, can be reach on **(571) 272-3134**. The fax phone number for this group is **(571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bob A. Phunkulh
Primary Examiner
TC 2600
Technology Division 2616
July 24, 2006

BOB PHUNKULH
PRIMARY EXAMINER